

REMARKS

Claims 1 and 19 have been amended. Claims 1-8 and 10-19 are currently pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claims 1-4, 13-15 and 19 are rejected under 35 U.S.C. § 103 as being unpatentable over Kimura in view of Ohsato. Reconsideration is respectfully requested. Claims 1 and 19 have been amended to obviate the rejection.

Claim 1 is amended to recite, among other things, that “substantially no light reflected by the first recording layer reaches the second photo detecting section, and substantially no light reflected by the second recording layer reaches the first photo detecting section that is in contact with and adjoins the second photo detecting section, the light shone by the light source on the optical disk being focused on one of the first recording layer and the second recording layer.” As explained below, this feature of claim 1 represents a patentable distinction over the asserted combination of references.

The Office Action, page 3, lines 16-18, states as follows: “532 and 534 are close to each other but not necessarily touching, which fits the definition of adjoins, ‘adjoin’ having a definition of ‘to be close to,’ see Office Action Appendix.” The Office Action Appendix provides the definition of the term “adjoin” as “to be close to or in contact with; abut on.” The relevant limitation of claim 1, however, now reads: “is in contact with and adjoins.” The light detecting elements 532 and 534 of Kimura are not “in contact with and adjoin[ing]” each other.

Accordingly, Kimura fails to disclose the above-noted feature of claim 1, namely “substantially no light reflected by the first recording layer reaches the second photo detecting section, and substantially no light reflected by the second recording layer reaches the first photo detecting section that is in contact with and adjoins the second photo detecting section, the light

shone by the light source on the optical disk being focused on one of the first recording layer and the second recording layer.”

Ohsato does not cure the deficiencies of Kimura.

Accordingly, the invention of claim 1, as amended, should be patentably distinguishable over the asserted combination of references, i.e., Kimura and Ohsato. Claims ultimately depending from claim 1 are also patentable at least for the same reason.

Claim 19 is amended similarly to the manner in which claim 1 is amended. Claim 19 and the claims ultimately depending therefrom are thus also patentable. Accordingly, allowance of the application, as amended, is solicited.

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Respectfully submitted,

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